



TOWN OF LOOMIS

ACTION MINUTES
REGULAR MEETING OF
LOOMIS TOWN COUNCIL
LOOMIS DEPOT

5775 HORSESHOE BAR ROAD, LOOMIS, CA 95650

TUESDAY	NOVEMBER 9, 2010	7:00 P.M.
CLOSED SESSION – Pursuant to cited authority, the Town Council will hold a closed session to discuss the following listed items. A report of any action taken will be presented prior to adjournment of the regular meeting.		
a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Initiation of litigation pursuant to subdivision (c) of Section 54956.9: One potential case		
TUESDAY	NOVEMBER 9, 2010	7:30 P.M.

CALL TO ORDER

Call to order by Mayor Liss at 7:34 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Mayor Liss
Councilmember Kelley
Councilmember Morillas
Councilmember Scherer
Councilmember Ucovich

STATEMENT OF ACTION TAKEN DURING CLOSED SESSION

Dave Larsen, Town Attorney, stated the following:

- the close session tonight has to do with the question whether we go to Superior Court to seek clarification on how to implement the term limits measure, particular whether the retro-active provision is legal
- the will of the council was to hear from the public on the issue of whether we should go forward and seek legal clarification or not prior to beginning to deliberate in earnest on the issue in close session
- one possibility is that the council could indicate that they want to discuss a lot of this in a special session
- there are some decisions council needs to make in close session and should not be shared with any opposing group
- the council wants to be as open and transparent about this as possible within the limits of the law
- he invited the public to comment on this matter during public comment (on items not on the agenda) as to whether they should seek judicial clarification from the Superior Court

PROCLAMATIONS/RECOGNITIONS

Honoring the Veteran's

A reminder that November 7-14 is Western Week in Loomis: Cowboy Code – “Live each day with courage. Take pride in your work. Always finish what you start. Do what has to be done. Be tough, but fair. When you make a promise, keep it. Ride for the brand. Talk less and say more. Remember that some things aren't for sale. Know where to draw the line.”

MATTERS OF INTEREST TO COUNCILMEMBERS/FUTURE AGENDA ITEMS

Councilmember Ucovich asked to have on a future agenda a request to the League of California Cities to strongly work towards getting clarification of Proposition 25.

Councilmember Kelley read a speech that was given by Jim Holmes, Placer County Supervisor, on honoring our nation's veterans by dedicating a memorial plaque of the Liberty Elm at the Loomis Library.

Councilmember Scherer stated the following:

- he was at the SACOG meeting and the Mayor of Sacramento was there talking about the Greenwise program and they are having a presentation coming up later this month at UC Davis and it would be great if someone from our Council would attend
- he read in the paper the next day that he would like to consider consolidation, city and county, in order to provide a more a more efficient services
- he contemplated writing a letter suggesting rather than consolidation they look at the Loomis modal of operations, in that we are a city of no debt, we have a healthy reserve available and provide an adequate level of services to our community

All items on the agenda will be open for public comment before final action is taken. Speakers are requested to restrict comments to the item as it appears on the agenda and stay within a five-minute time limit. The Mayor has the discretion of limiting the total discussion time for an item.

Written Material Introduced Into the Record: Citizens wishing to introduce written material into the record at the public hearing on any item are requested to provide a copy of the written material to the Town Clerk prior to the public hearing date so that the material may be distributed to the Town Council prior to the public hearing.

PUBLIC COMMENT: This time is reserved for those in the audience who wish to address the Town Council on subjects that are not on the Agenda. The audience should be aware that the Council may not discuss details or vote on non-agenda items. Your concerns may be referred to staff or placed on the next available agenda. Please **note that comments from the public will also be taken on any item on the agenda. The time allotted to each speaker may be limited to five minutes or less**, at the discretion of the Mayor.

Bill Branch, 6605 Wells Avenue, stated the following:

- he is disappointed because as of noon today he was happy about the Measure A situation
- he thought they had an agreement from both sides to have a ruling from the court to clarify it so we know who is or isn't seated on the Council
- he learned that Councilmember Scherer was advised to reclude himself for an alleged conflict of interest
- he recommends the Council consider postponing the entire issue long enough to get more input on this and to figure out what constitutes a conflict of interest
- he wants to go on record as saying that if Councilmember Scherer has a conflict of interest, he is challenging every member of Council except Councilmember Kelley, to disqualify themselves for exactly the same conflict of interest
- Measure A will equally affect every member of this Council, including members elected but not yet taken a post
- he doesn't think it is a conflict of interest because Councilmember Scherer is removing himself from a conflict of interest if he votes to turn it over to the courts

Jo Carol Arisman, 6160 Rachel Lane, stated the following:

- Government Code says: in in-acting this Chapter the Legislature finds and declares that the public commission boards and councils and other public agencies in this state exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this state do not yield their sovereignty to the agency which serves them.
- no public official at any level of the state or local government, shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest
- as far as Measure A is concerned, we should settle it, and find out what is right and what is not

Sonja Cupler, 5630 Tudor Way, stated the following:

- she submitted a statement this afternoon that was suppose to be read in close session
- Tom Millward also submitted a statement and asked if it should be read at this time or if it was read in close session

Dave Larsen, Town Attorney, stated that the statements were distributed to the Council in close session.

Jean Wilson, 4301 Barton Road, stated the following:

- she would like to see this go to judicial clarification
- she thinks the Town needs clarification
- this method would be clear, clean, and quick and let a decision be made so the Town can move on

Hazel Hinehine, 3443 Barker Road, stated the following regarding Measure A:

- asked if there is going to be a special meeting called so people can give input
- she is concerned that there are people that are confused and don't understand the ramifications of the measure at this point
- she asked why is it being dealt with so quickly and not allowing the public a chance to be heard on this issue
- this was brought before the Council in September 2009 and the authors of the initiative wanted it to be on the June ballot
- Council voted to not have it on the June ballot because the cost to the Town for a special election so Council voted to have it on the November 2nd
- she is concerned that no one saw that the date was wrong and why it was put on the ballot like this
- she asked Council to have a special meeting and notice in the paper so if citizens have concerns and comments they can come and speak on it
- we don't want people to have the impression of "behind close door politics"

Janet Thew, 5572 St. Francis Circle, stated the following:

- regarding the issue of recusal, in California Government Code Section 87100 says, "no public official, at any level, of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest"
- the only financial interest you would have is your monthly stipend
- hearing this call for a public meeting brings fear, this has already been played out in the public arena
- the only way to get this out of the political cesspool is to send it to a neutral third party, a judge, for an impartial decision

Nancy Beck, 6304 David Avenue, stated the following:

- she agrees with Ms. Thew and Mr. Branch and would hope that the Town would take the opportunity to turn it over to the courts for a legal ruling
- this is the best way to be fair to all parties involved

Dave Larsen, Town Attorney, stated the following:

- on the conflict issue, you state what the law says, some of this should be discussed in close session
- the sequence as it pertains to tonight's issue, there was an initiative brought forward, council asked if any aspect of the initiative was illegal and he stated in his opinion the retroactive part was illegal
- he looked at the law and determined if you have a procedural list you can take it to the court prior to the election
- if you are dealing with a constitutional issue the courts say we are not going to hear that until after the people have spoken
- he has a legal obligation to advise the Council when he thinks a law, that is on the books, is illegal

At this time Council adjourned back into close session at 8:20 p.m. to 8:54 p.m.

ACTION TAKEN IN CLOSE SESSION

Dave Larsen stated the following:

- after extensive discussion on the issue of conflicts, Mayor Liss, Councilmembers Morillas, Scherer and Ucovich decided they had a conflict
- they went to the rule provided in the code that says you can choose by straw, the minimum needed, to take an action
- Mayor Liss and Councilmember Scherer had the shortest straws and did not participate in the vote and the other three Council unanimously motioned to direct the attorney to take this matter to court to get a ruling on the constitutionality of retroactivity as stated in the term limits

Councilmember Kelley stated the following:

- he is concerned that this was not listed on the agenda for public comment
- people have a right to participate and have their say

Mayor Liss and Councilmember Scherer recused themselves and left the room.

Mr. Larsen asked if Councilmember Kelley wants to change his vote.

Councilmember Kelley changed his vote based on the fact that this item was not put on the agenda for public comment and there are people that didn't have the opportunity to participate tonight.

Councilmember Ucovich stated that in close session we were told that whether or not we had a public meeting or not it would not change, so he is keeping his vote to go to court.

Councilmember Morillas still supports going to court.

Mr. Larsen stated the vote is amended 2/1 in favor of going to court.

Mayor Liss and Councilmember Scherer returned to the table.

ADOPTION OF AGENDA: Council will typically adopt the agenda **in the order listed or modify the order** in a way that can best accommodate the time of people in attendance who wish to speak on particular items.

A motion was made to adopt the Agenda and changing the order to discuss item 14 first, than 15, and 13. On motion by Councilmember Ucovich, seconded by Councilmember Scherer and passed by voice vote, with Councilmember Morillas voting no (4/1).

OPPORTUNITY TO COMMENT ON CONSENT CALENDAR: All items listed under the Consent Agenda are considered by the Council to be routine in nature and will be enacted by one motion unless an audience member or Councilmember requests otherwise, in which case, the item will be removed for separate consideration.

No public comment.

A motion was made to table item 11, pull items 8, 9, 10 12 forward for discussion after items 14 and 15, and adopt the Consent Agenda as amended. On motion by Councilmember Ucovich, seconded by Councilmember Morillas and passed by voice vote.

CONSENT AGENDA

RECOMMENDED ACTION

- 1. Council Minutes – 10/12/10
8/5/10 With Councilmember Kelley abstaining. *APPROVE
APPROVE*
- 2. Monthly Check Register – October *RECEIVE AND FILE*
- 3. Statement of Activity *RECEIVE AND FILE*
- 4. Treasurer’s Report *RECEIVE AND FILE*
- 5. Planning Status Report *RECEIVE AND FILE*
- 6. 2010/11 Goals Update *RECEIVE AND FILE*
- 7. Select Rocklin Development Projects Update *RECEIVE AND FILE*

- 11. Planning Commission Appointment *APPROVE*

CONSENT ITEMS FORWARDED

- 8. Silver Star Service Banner Day Proclamation *APPROVE*

Councilmember Kelley questioned where the proclamation came from.

No public comment.

Following further discussion on the matter, a motion was made to approve. On motion by Councilmember Morillas, seconded by Councilmember Scherer and passed by voice vote.

- 9. A Resolution Of The Council Of The Town Of Loomis Acknowledging the Review, Receipt and Filing of The Annual Statement of Investment Policy *ADOPT RESOLUTION*

Councilmember Ucovich stated that before we adopt this he would like to pull this forward to the Council meeting in December and have the Finance Director explain the built in safeguards that may or may not be there.

No public comment.

Following further discussion on the matter, a motion was made to defer this item to December 14, 2010. On motion by Councilmember Scherer, seconded by Councilmember Ucovich and passed by voice vote.

- 10. Town Attorney Reimbursement of Expenses *APPROVE*

Councilmember Kelley stated the following:

- this has been going on since 2007
- we should have the bills paid by the end of each year and not accumulated
- like to see a little better service and taken care of each year

No public comment.

Following further discussion on the matter a motion was made to approve reimbursement of expenses for the Town Attorney. On motion by Councilmember Morillas, seconded by Councilmember Ucovich and passed by voice vote.

- 12. Park, Recreation and Open Space Committee Quarterly Report *RECEIVE AND FILE*

Councilmember Kelley stated the following:

- if they could put on their worksheet where they got their direction to do these things
- he wants to keep them more focused and find out on the Town minutes where the council directed them on a particular item, just so we don't lose track of where we are going, because we have lost track over a period of time

No public comment.

Following further discussion on the matter, a motion was made to receive and file and have information included in their notes where their direction comes from to work on items (for example from the Council minutes). On motion by Councilmember Scherer, seconded by Councilmember Ucovich and passed by voice vote.

BUSINESS

13. Berg Lane Houses

Mr. Duane Fender wishes to address the Council on a matter of certain houses on Berg Lane that he believes should be razed.

Recommended action: Hear presentation and give direction.

Public comment:

Duane Fender, 3780 Berg Lane, stated the following:

- he is a 50 year resident of Berg Lane
- there has been a homicide, robbery and drug situations in the houses
- the road is in terrible shape and the houses have junk everywhere and are running his property value to the dumps
- a copy of the issues are in the staff report
- asked if the owner can be stopped from renting them until this is settled
- subdivision reviewed for compliance
- need to address the 10% affordable housing
- request having an ordinance that would not allow growing of pot

No public comment.

Following further discussion on the matter, a motion was made to direct staff to review this and come back at another Council meeting addressing the 10% affordable housing as it pertains to this, proposed subdivision reviewed for compliance, option for no growing of pot ordinance, and code compliance (junk, trash, furniture, vehicle parts, etc.). On motion by Councilmember Ucovich, seconded by Councilmember Kelley and passed by voice vote.

14. 2010 Updated Speed Survey

In accordance with the California Vehicle Code requirements, a speed survey must be updated every five, seven or ten years to ensure that the current speed limits throughout Town are adequate and easily enforced through the court system.

Recommended action: Adopt resolution for the 2010 updated speed survey with the following recommendation from staff and the Sheriff's Department.

Public comment:

No public comment.

Councilmember Ucovich questioned the difference between the shaded and un-shaded speed limits showing existing of 35 and recommended to change to 40 miles an hour.

Brian Fragio, Town Engineer, pointed out that only the ones that are shaded will be changed and the others will stay at their existing speed limit.

Webb Street – King to Taylor

Councilmember Scherer stated concerns about changing this speed limit because the road is short, site is bad, drop in altitude from the railroad crossing, there are no sidewalks, and it is extremely un-safe when pedestrians are walking.

Bob Brodovsky, Placer County Sheriff, stated the following:

- if sidewalks are put in than it can be a residential roadway and stay at 25 mph
- the speed survey is the basis for their enforcement
- if the judge deems the survey is out of compliance he can throw the survey out

Following further discussion on the matter, a motion was made to approve the recommendations except for "Webb Street – King to Taylor" will be left at 25 mph. On motion by Councilmember Ucovich, seconded by Councilmember Kelley and passed by voice vote.

15. Green Ribbon Task Force Report

Mayor Liss has concluded work with his Green Ribbon Task Force and has a report to submit for Council's consideration.

Recommended action: Receive report and give direction as to how Council wishes to consider the proposed recommendations.

Public comment:

Dave Larsen pointed out the following:

- when the Green Ribbon Task Force was originally formed it was to be an informal group to give recommendations to the Mayor
- he suggested a cover letter being added stating that this is the Mayor's recommendations based on the Green Ribbon Task Force

Gary Hayworth, 2370 Rancho Verdi Lane, stated the following:

- he is a member of the Green Ribbon Task Force
- his expertise is in the solar electric
- he encouraged Council to consider the 10 recommendations

Daryl Johnson, 21998 Iron Horse Drive in Grass Valley, stated the following:

- he works for Pacific Gas and Electric
- he was asked to be a technical advisor to the group
- he pointed out everything in 6. "Energy Audits" is a free service and can have direct results of cost savings to the residents and business owners
- he supports the 10 recommendations as well as other programs mentioned in the report
- they also want to educate people and they will go out to residents, businesses, and schools and talk with them about ways they can conserve energy

Jeff Bordelon, 6316 Wells Avenue, stated the following:

- he is a volunteer with Placer Sustain
- they have worked with the Task Force and have made recommendations
- he thinks what Loomis has started here is a great beginning and critical that this movement continues
- he endorses this whole process
- this is a good opportunity for Loomis to become a green center

Sue Flannigan Bordelon, 6316 Wells Avenue, stated the following:

- she was an active member of the Task force
- she wanted to focus on who we are as a city and who we are in the eyes of our young people
- there is a lot of recommendations about education and bringing in the family and young folks and educating them on a green community
- asked Council to accept all of the 10 recommendations of the task Force

Carol Pepper-Kittredge, 8520 Walden Woods Way in Granite Bay, stated the following:

- she is an employee at Sierra College and a board member of Placer Sustain
- commended the Mayor and the Task Force for their leadership and the Council for considering this
- supports adoption of the recommendations

John Rowe, Recology, stated that the pilot program will offer a green waste toter with the 32 gallon customer.

Following Council discussion on the matter, Mayor Liss suggested the following:

3. Lead by Example in Downtown Park: Deleting the reference to "Delete Lawn area."
7. Public Facilities: Deleting, "Explore turning lights out at Del Oro Football Stadium when not in use."
8. Sunrise Park: deleting the reference "pilot program to improve the turf at the park."

A motion was made to accept the report with the above deleted items to be brought forward for further discussion at a future council meeting. On motion by Councilmember Scherer, seconded by Councilmember Morillas and passed by voice vote.

At this time Council discussed Item 8.

COMMITTEE REPORTS

16. Placer County Community Services Commission - Kelley
17. Placer County Economic Development Commission – Ucovich
18. Placer County Flood Control/Water Conservation District – Morillas/Liss
19. Placer County Transportation Planning Agency – Ucovich/Kelley
20. Placer County Mosquito Abatement – Kelley
21. Placer County Air Pollution Control District – Ucovich/Morillas
22. Sacramento Area Council of Governments – Scherer/Liss
23. Placer Land Trust ex-officio representative – Scherer
24. Borders Committee – Scherer/Liss
25. Business Committee – Scherer/Liss

ADJOURNMENT

A motion was made to adjourn at 10:30 p.m. On motion by Councilmember Ucovich, seconded by Councilmember Kelley and passed by voice vote.

Mayor

Town Clerk